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REMARKS

Claims 1-17 were pending in the application and have been rejected. Claims 1 and 8 have been amended. Applicant respectfully requests reconsideration of the pending claims.

CLAIM REJECTIONS UNDER 35 USC 101

The Office Action rejected claims 8-9 under 35 USC 101 as directed to non-statutory subject matter.

Claim 8 is directed to the statutory category of machines. The Office action misconstrued the term system by improperly importing some language from the specification into the claims. Nevertheless, in an effort to advance prosecution, claim 8 has been amended to specify the parts of a computing machine that perform each step.

Claim 9 inherits the limitations of claim 8 by virtue of its dependence on claim 8.

CLAIM REJECTIONS UNDER 35 USC §102

The Office Action has rejected claims 1-17 under 35 USC 102(e) as being anticipated by Loughmiller et al. (US 7,257,564). For a reference to anticipate a claim, each element and limitation of the claim must be found in the reference. *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302 (Fed. Cir. 1995). Applicant respectfully requests reconsideration of the rejections.

Independent claims 1, 8, and 11 are not anticipated by Loughmiller for the following reasons:

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The Office Action at page 3 points to Loughmiller at col. 2, lines 7-30 as disclosing the claim element of “providing at least three electronic mail directories, each electronic mail directory being assigned a range of likelihood of spam content.” Applicant respectfully disagrees. Loughmiller discloses “classifying” messages based on “likely spam” and “likely good.” Loughmiller also discloses dividing “messages into ‘likely good’ and ‘likely spam’ and with that information, operate at a more detailed and discriminating level to distinguish among good messages, bulk periodicals, and spam.” Loughmiller, however, does not disclose the three electronic mail directories assigned a range of likelihood of spam content, as recited by the claims. This is because Loughmiller’s “spam filter 121 retains those messages classified as junk email at the appliance level 120 in storage 122, while allowing those messages classified as good messages or bulk periodicals, suitably marked, to be forwarded to the server level 130. At the server level 130, the mail server 131 receives the good messages or bulk periodicals, suitably marked, delivers the good messages to the “good messages” mailbox section 142, and delivers the bulk periodicals to the ‘bulk periodicals’ mailbox section 143.” Col. 5, lines 28-37.

It is clear from the above that Loughmiller not only does not provide the at least three electronic mail directories with assigned ranges; but Loughmiller does not allow the “likely spam” messages to reach the user’s inbox. In the claims at issue, the instant version of “likely spam” messages are assigned to a directory with a high likelihood of spam content, but they are not withheld from the user’s mail.

Loughmiller’s inbox and the instant electronic mail directories are not one and the same. An “inbox” in a computer context is defined as “an area in memory or on disk that holds

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received messages that have not been read or processed.” See Freedman, *Computer Desktop Encyclopedia*, 9th Edition, Osborne, McGraw-Hill (2001). Whereas, the term “directory” is defined as: “A simulated file folder on disk. Programs and data for each application are typically kept in a separate directory (spreadsheets, word processing, etc.). Directories create the illusion of compartments, but are actually indexes to the files which may be scattered all over the disk.” *Id.*

Loughmiller goes so far as to classify some email messages, but Loughmiller does not disclose assigning spaminess ranges to at least three email directories for sorting incoming mail messages. This is because Loughmiller’s method filters out the “likely spam” messages from ever reaching the user’s mailbox and then just classifies the remainder (the “likely good”) into two categories based on whether or not they are bulk periodicals. Loughmiller’s method does not concern itself with ranges of spaminess and Loughmiller does not disclose allowing a user to adjust the level of spaminess used to determine the ranges for the mail directories.

Claim 2 is dependent upon claim 1 and is therefore not anticipated by Loughmiller for at least the same reasons that claim 1 is not anticipated by Loughmiller. In addition, claim 2 recites a limitation of assigning an email to at least two different directories if the email falls within an overlap range. Loughmiller’s email classification system does not provide for an overlap range or the possibility of assigning the same email to two different directories.

The Office action cites Loughmiller, col. 5, lines 35-37 but that part of Loughmiller discusses two levels of non-spam, a “good messages” mailbox section and a “bulk periodicals” mailbox section (both are passed to the client level where they are stored in either the good block

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or directory 142 or the bulk block or directory 143) but there is no overlap in classification and the different classes of emails are not stored in the same directory. Therefore, claim 2 is not anticipated by Loughmiller and its rejection should be withdrawn.

Claims 3 through 7 are dependent on claim 1 and are therefore allowable for at least the same reasons that claim 1 is allowable.

Claims 12-17 are not anticipated by Loughmiller because they further elaborate on the method of classifying email by using multiple directories wherein each directory is assigned a different range of likelihood spam content. Further, claims 12-17 are not anticipated by Loughmiller by virtue of their dependence on claim 1 which is not anticipated by Loughmiller for the reasons as stated above.

For the foregoing reasons, Applicant respectfully requests allowance of the pending claims.

Respectfully submitted,

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